

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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RICHARD A. HAFNER,

Case No. 14-CV-3308 (PJS/JJK)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

ROGER BABURAM, Head of the End of  
Confinement Review Committee in his  
Individual and Official Capacity,

Defendant.

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Plaintiff Richard A. Hafner commenced this action by filing a Complaint seeking relief for alleged violations of his constitutional rights. (*See* Doc. No. 1.) He did not pay the required filing fee for this case. Instead, Hafner filed an application seeking leave to proceed *in forma pauperis* (“IFP”). (*See* Doc. No. 2.) In an Order dated September 5, 2014, this Court denied Hafner’s IFP application, finding that his income was too high to qualify for IFP status. This Court also ordered that Hafner pay the \$400 filing fee for this case no later than 20 days after the date of that Order — that is, no later than September 25, 2014 — failing which this Court would recommend that this case be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. (*See* Doc. No. 3.)

That deadline has now passed, and Hafner has not paid the required filing fee. Indeed, Hafner has not communicated with this Court at all about this case since initiating this lawsuit. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district

court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order."").

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: October 6, 2014

s/ Jeffrey J. Keyes

JEFFREY J. KEYES

United States Magistrate Judge

### **NOTICE**

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 20, 2014**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Eighth Circuit Court of Appeals.